

### **REMARKS**

Claims 1, 2, 3, 4, 5, 6, 10, 11, 12, 14, 15, and 16 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1-5, 7-8, 10-11, 13-15 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Eyzaguirre, et al.* (U.S. Pat. No. 6,353,170). These rejections are respectfully traversed.

#### **Regarding claims 1-3, 10 and 14:**

At the present time, Applicant respectfully suggests that it is unnecessary to amend Claims 1-3, 10, and 14, because the present invention and *Eyzaguirre, et al* may be distinguished. Applicant's attorney is submitting two diagrams herewith that are believed to be helpful in understanding some aspects of how the present invention and the cited reference are different.

Applicants' invention defines two basic types of data, style data and performance data. The style data are made up of a plurality of "constituent parts regarding accompaniment" and the performance data are made up of a plurality of performing parts. See the accompanying claim "Diagram Useful in Understanding Applicant's Claim 1". Each of the constituent parts and performing parts contains a series of musical tone event data arranged in time series.

With further reference to Applicant's claim 1 and the Diagram provided, the performance data are created by a user. The user's performance data are displayed in a First Display—specifically, the contents of the performing parts included in the user's performance data in a time-series manner are displayed.

In addition, a user-controlled "style selector" selects the desired style data from the plurality of available style data. The selected style data are displayed in a Second Display—specifically, blocks designating the constituent parts included in the selected style data are displayed.

Further in accordance with the Applicant's invention, as expressed in claim 1, a controller is used to allow blocks in the Second Display to be moved to a desired time-related position within a desired performing part in the First Display.

While the Eyzaguirre reference deals generally with the assembly of a musical composition, it functions in a quite different manner. Referring to the provided "Diagram Useful in Discussing Eyzaguirre Reference," and also referring to Eyzaguirre Figure 7, the cited reference allows the user to choose samples (which the reference describes as prerecorded loops of one measure in length) and place them by dropping into a desired location within a track. The user can also change the "instrument" used for a given track by manipulating the instrument row selector. When the instrument is changed from say Instrument A to Instrument B, the program substitutes different prerecorded loops that represent the same notes, but played with a different voice. The user can also control a harmonizer, which affects the harmony used by all samples in a column. Figure 4 illustrates in basic flowchart form, these capabilities of the Eyzaguirre

system. For completeness, Applicant will next provide a more detailed analysis of Eyzaguirre.

Eyzaguirre column 4 teaches that in the musical composition screen of a display, a music sample of a desired style is selected and is dropped at a prescribed position in the composition, thus allowing the music sample to be inserted into the composition. The Examiner refers to column 4, line 25 et seq. as an equivalence of the style selector of the present invention for selecting desired style data because FIG. 6 shows that the user is allowed to select one musical instrument for the musical composition from among a plurality of musical instruments displayed on the screen.

The applicant respectfully suggests, however, that the selection of the musical instrument in FIG. 6 is directed to displaying of the instrument row 730 for designating a play part of the music to be composed but is not directed to displaying of the internal configuration of the data that already exists. For this reason, the applicant considers *Eyzaguirre, et al.* fails to teach or indicate the second display section of the present invention for displaying a plurality of constituent parts regarding accompaniment, which are included in the style data selected by the style selector, in units of blocks.

In addition, the Examiner refers to column 4, line 33, et seq. in which in the musical composition screen shown in FIG. 7, the sample selector 720 allows the user to select a desired music sample from among a plurality of music samples, whereas the sample selector 720 does not include a plurality of constituent parts regarding accompaniment; hence, one sample selector 720 does not correspond to one style data described in the present invention. In addition, the applicant considers that the collection of plural sample selectors 720 in the musical composition screen does not

form one style data described in the present invention. This is because the collection of plural sample selectors 720 does not have the configuration of the style data of the present invention which includes one data selected from among plural data.

In view of these distinguishing aspects, the applicant would summarize by saying that *Eyzaguirre, et al.* fails to teach or indicate at least the following points of the present invention.

- (a) When the style selector selects desired style data from among plural style data, plural constituent parts included in the desired style data are displayed in units of blocks;
- (b) The style data are constituted by plural constituent parts regarding accompaniment.

Therefore, it is respectfully submitted that Claims 1-3, 10 and 14, along with claims depending therefrom, defines patentable subject matter Eyzaguirre.

Regarding claims 4, 5, 11 and 15:

The Examiner refers to column 4, lines 25-26, which the Examiner may view as teaching the selector described in the present invention. However, as described above, *Eyzaguirre, et al.* merely teaches the musical composition that is realized by inserting music samples into the composition. That is, it fails to teach or indicate the selector of the present invention that selects either the style data, which are fixed data and are not rewritten, or the user's performance data, which are created by the user. This reference also fails to teach or indicate the playback device as recited in Applicant's claimed invention.

Applicant requests the Examiner to note that the recited selector and playback devices are different. Specifically, the selector is adapted for selecting either the *style data* or the user's *performance data* in accordance with the user's instruction. The playback device is adapted for reproducing both of the accompaniment part of the style data are selected by the selector, and for reproducing both of the accompaniment part of the user's performance data and the other performance part of the user's performance data when the user's performance data are selected by the selector. Claims 4, 5, 11 and 15 have been amended to more clearly define these aspects of the present invention. Since Eyzaguirre fails to teach or suggest these aspects of Applicant's invention, it is respectfully submitted that Claim 4, 5, 11 and 15, along with claims depending therefrom, defines patentable subject matter over Eyzaguirre. Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 6, 9, 12 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Eyzaguirre, et al.* in view of *Hayakawa, et al.* (U.S. Pat. No. 5,326,930). These rejections are respectfully traversed.

*Hayakawa* teaches in column 5, line 51, et. seq., that in the music data processing machine, the punch-in timing and punch-out timing are set by operating the punch-in/punch-out switch 17 during the reading operation for reading song data upon the operation of the start/stop switch 11. It also teaches that the light emission manner of LED is changed by the setup of the punch-in recording. This indicates that the light

emission manner of LED is changed simply in response to the operation of the punch-in/punch-out switch 17.

Neither of these references discloses that a determination is made as to whether or not the part selector selects the specific part when the record switch and start switch are operated. In other words, when the recording is started, a decision is made as to whether or not the part selector selects a specific part. Thus, these references fail to teach or suggest the operation and function of the record mode discriminator. Furthermore, these reference fail to disclose a display manner changer which changes the display of the start switch based on the discrimination result as determined by the record mode discriminator. Claims 6, 12 and 16 have been amended to more clearly define these features of the present invention. For at least these reasons, it is respectfully submitted that these claims, along with claims depending therefrom, defines patentable subject matter over Eyzaguirre in view of Hayakawa. Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.


#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: June 24, 2005

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